

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEITH L. NASH,

Plaintiff,

v.

CLARK COUNTY SHERIFF'S
DEPARTMENT, et al.,

Defendants.

CASE NO. C10-5070BHS

ORDER GRANTING
DEFENDANTS' MOTION TO
DISMISS

This matter comes before the Court on Plaintiff's ("Nash") "stipulated" motion to modify the Court's prior scheduling order (Dkt. 32) and Defendants' motion to dismiss (Dkt. 33). The Court has considered the pleadings filed in support of and in opposition to the motions and the remainder of the file and hereby denies Nash's "stipulated" motion and grants Defendants' motion to dismiss for the reasons discussed herein.

I. PROCEDURAL AND FACTUAL HISTORY

On July 28, 2010, the Court granted Nash additional time to amend his complaint and properly serve the Defendants. Dkt. 20. On August 9, 2010, Nash moved the Court for a second enlargement of time to effect proper service. Dkt. 23. On September 13,

1 2010, the Court denied the second motion for enlargement and ordered Nash to comply
2 with the prior order granting an extension of time to properly serve Defendants. Dkt. 31.


3 On October 6, 2010, Nash filed what he styled a “stipulated” motion for modifying
4 the Court’s scheduling order. Dkt. 32. On October 15, 2010, Defendants responded and
5 renewed their motion for dismissal. Dkt. 33. Nash did not reply.

6 The Court has provided Nash several opportunities to effect proper service and has
7 been patient with his failures to comply with prior orders, given that he is proceeding *pro*
8 *se* in this matter. However, Nash has yet to properly serve any of the Defendants. *See* Dkt.
9 33 at 4 (Gene A. Pearce Declaration) (attesting to the fact that none of the Defendants
10 have received proper service in this matter). Further, the parties did not stipulate to any
11 modification, as Defendants did not agree to stipulate. *See id.*

12 Therefore, the Court dismisses this matter without prejudice for failure to properly
13 serve and for failure to comply with the Court’s orders. *See* Fed. R. Civ. P. 4(m)
14 (service); *see also* Fed. R. Civ. Pro 41(b) (failure to comply with a court’s order may
15 result in dismissal).

16 DATED this 29th day of October 2010.

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BENJAMIN H. SETTLE
United States District Judge